

## LAW ABOUT PRIVATE SECURITY SERVICES

**Law No. 5188**

**Date of Enactment 10.6.2004**

### **PART I**

#### **General Provisions**

##### **Goal**

**ARTICLE 1.** – The goal of the present law is to define the principles and procedures regarding the private security services which complement public security.

##### **Scope**

**ARTICLE 2.** – The present law includes subjects regarding the permission to be given for private security services, and licensing and supervision of those persons and organizations that fulfill such services.

##### **Permission regarding private security services**

**ARTICLE 3.** – Protection of the individuals by armed personnel, establishment of the private security units within institutions and organizations or hiring of companies for provision of security services are all subject to the permission given by the Governor. For meetings, concerts, stage performances and similar activities and the temporary or emergency situations such as transportation of money or valuable properties, the Governor may grant permission for private security without the decision of the commission.

Upon requests of the individuals and organizations, and considering the protection and security requirements, permission will be given for the security services to be performed by staff that will be recruited and for establishing the private security units within institutions and organizations or hiring of companies for provision of security services., Establishment of a private security unit does not preclude hiring of a security company when needed within an organization

The commission is authorized to determine the staff that will perform the protection and security services, the quality and maximum amount of the arms and equipment to be held or carried and other security measures both physical and instrumental, in the necessary situations. The international liabilities regarding the security measures in such places as airports and seaports are reserved.

Private security schemes for other than the temporary situations may be ended with the decision of the commission and the consent of the Governor provided that application is made no later than one month prior.

##### **Private security commission**

**ARTICLE 4.** – Private security commission comprises, under the chairmanship of the Assistant Governor assigned by the Governor, of the representatives of Local Security Department, local gendarmerie headquarters, chamber of commerce and chamber of industry for taking the decisions regarding private security referred to in this Law, ,. As far as the provinces where no chamber of industry exists are concerned, the representative



of the chamber of commerce and industry will participate in the commission. In order to give private security permissions or to cancel such actions, the person or the representative of the applicant organization will participate in the commission meeting as a member. The commission adopts the decisions by majority of votes; in case of equal number of votes, the group that includes the chairman will be deemed as the majority; no absentia voting is allowed.

#### **Private security companies**

**ARTICLE 5.** – Engagement in activities, of companies in the field of security is subject to the permission given by Ministry of Internal Affairs. In order the operating permission to be given, the company shares must be registered and the scope of activities must be exclusively protection and security services. The private security companies will notify their branch offices to the Ministry and the relevant Governorship in writing and their share transfers to The Ministry in one month.

The foreigners' founding private security companies and foreign companies' providing private security services in Turkey are subject to the reciprocity principle.

The conditions described in (a) and (d) clauses of the Article 10 of the present Law are sought in the founders and directors of the private security companies. It is also compulsory for the directors to have graduated from a 4-year university, to meet the condition described in (d) clause of the Article 10 of the present Law and to have successfully completed the private security basic training that is described in the Article 14 of the present Law.

In the case that the qualifications sought in the founders and the directors are lost, the operating permission will be abolished unless the deficiencies are corrected or these founders and the directors are replaced within two months..

The protection and security services that these companies will provide for third persons, institutions and organizations are notified to the relevant Governorship no later than one week before the service starts. No time requirements sought in the emergency and temporary protection and security services,.

#### **Additional measures**

**ARTICLE 6.** – Civilian administration authorities are authorized to supervise the private security measures taken in the airports, seaports, customs, stations and railway stations and such places in which sports contests, stage performances and similar activities are performed and to take extra measures as public security necessities.

In terms of establishing the public security, the authorities that are given to the Governors and District Administrators with the Provincial Administration Law with the number 5442 are reserved. In the case that such authorities are performed, the private security unit and private security staff have to obey the commands of the Civilian administration authorities and the general police chief.

## **PART II**

### **Private Security Guards**

#### **The authorities of the Private security guards**

**ARTICLE 7.** - The authorities of the Private security guards are as follows:

a) Letting the persons who are to enter the areas where private security guards establish protection and security, pass through sensitive doors, checking such people with detectors, checking the goods through X-ray devices or any other security systems.

b) Checking the identity cards, letting the persons in through the sensitive doors, checking people with detectors, checking the belongings through X-ray devices or any other security systems in meetings, concerts, sports contests, stage performances and in funerals and wedding ceremonies.

c) Arresting and commensurate checking due to arresting in accordance with the article 127 of the Code of Criminal Procedure with the number 1412.

d) Arresting and searching those people for whom arrest, custody or conviction warrants exist in their field of mission.

e) Entering the offices and houses in their field of mission in case of natural disasters such as fire, earthquake and help is requested.

f) Checking the identity cards, letting the persons in through the sensitive doors, checking people with detectors, checking belongings through X-ray devices or any other security systems in public transport facilities such as airports, seaports, stations, railway stations and terminals.

g) Subject to notifying the police forces immediately, taking in custody any goods which are related to any crimes, or may be evidence or may lead to danger though not related to any crime.

h) Holding in safe custody any left or found goods.

i) Catching individuals with the aim of protecting them from any danger in terms of their bodies or health.

j) Protecting the crime scene and the evidences, making arrests with this aim in accordance with the Article 157 of Code of Criminal Procedure.

k) Using force in accordance with the Article 981 of Turkish Civil Code, Article 52 of The Law of Obligations, clauses (1) and (2) of the paragraph I of the Article 49 of Turkish Criminal Code.

#### **The authority to hold and carry weapons**

**ARTICLE 8.** – Numbers and qualities of the firearms may be kept by which security guards and for what security services will be determined by the commission.

However, no armed private security guards are allowed to work in schools, health facilities, gaming facilities and in places where alcoholic beverages are served. Private security guards may not carry their guns in private meetings, sports contests, stage performances and in similar activities.

The arms and equipments to be used for the protection and security services will be provided by the related person or organization. Private security companies are not allowed to buy or hold firearms. However, permission to buy, use and carry guns can be given by the decision of the commission and the approval of the Governor to the private security companies to be used in transfer of money or valuable goods and temporary protection and security services and to the institutions that provide private security training, to be used in training.

### **Sphere of duties**

**ARTICLE 9.** – These guards are allowed to use the authorities that were described in the Article 7 within their mission period and their mission field only.

Private security guards are not allowed to take their guns out of their mission field. In the situations that include a route such as following of an accused person of a committed crime or a strongly suspected person, taking measures against the attacks made from outside, transferring of money or valuable goods, protecting individuals and funeral ceremonies, the route will be included in the mission field. In compelling situations, the mission field may be extended by the decision of the Commission.

The incidents that necessitate the authorization to use force and arrest will be notified to the police forces in the quickest way possible and the person arrested and the goods brought under control will be delivered to the police forces.

### **The conditions to be sought in private security guards**

**ARTICLE 10.** – The following conditions are sought in private security guards:

- a) Being a Turkish citizen.
- b) Having graduated from high school or any other equivalent school.
- c) Being 18 years old or older.
- d) Excluding the negligent offences, not having been sentenced to heavy imprisonment or imprisonment for more than six months, or notwithstanding having been given amnesty, not having been sentenced for the crimes committed against the State, misappropriation, official corruption, bribery, theft, swindling, abuse of confidence, forgery, fraudulent bankruptcy or smuggling other than usage or consumption smuggling, corrupting the official bids and purchases, betraying the secrets of the government, making an improper innuendo to a woman, sexual harassment, molestation, rape, kidnapping and detaining a girl, woman or child, solicitation, acting as an intermediary for prostitution, drug abuse, drug smuggling.
- e) Not having been barred from public services.
- f) Not having any physical or mental illness that would prevent him/her to fulfill his/her duty and not being handicapped.
- g) Having successfully completed the private security basic training course as described in Article 14.

### **Working license**

**ARTICLE 11.** – Security investigation will be conducted by the Governor's Office for those who will be recruited as private security guards and those who will work as directors in the private security companies and private security training companies. Working license will be issued for a period of five years by the Governor's Office to those with positive results from the investigation on the condition that they successfully complete the private security basic training course described in Article 14 of the present Law. For those private security guards who will not carry firearms, only record investigation is made. Security investigation and record investigation will be completed within one month.

The private security guards take up duty are notified to the Governor's Office by the employer within one month.

For renewal of the working licenses, the security investigation must be positive and the private security renewal training course that is described in the Article 14 of the present Law must be successfully completed. In case that the qualifications sought in the private security guards are lost, the working license will be abolished. For those who have retired from the police or gendarmerie forces and for those who have resigned in their own will after working in the police or gendarmerie forces for no less than five years, no condition of private security basic training will be sought for a period of five years following their retirement or resignation.

#### **Identity Card**

**ARTICLE 12.** – Identity cards will be issued to the private security guards by the Governor's Office. The identity card will quote the name and surname of the guard and whether (s)he carries weapons.

Identity cards will be worn on front in such a way that will be visible to everyone in the mission field and mission period. Those private security guards who do not wear their identity cards cannot exercise their authorities that are described in the Article 7 of the present Law.

Those private security guards who have resigned from their duties for any reason will be notified to the Governor's Office within fifteen days.

#### **Dressing**

**ARTICLE 13.** – The private security guards wear uniforms at their mission fields and within their mission period. The commission may give permission to wear civilian clothes during their performance of their work when needed due to the requirements of the duty and office.

#### **Training**

**ARTICLE 14.** – The basic private security training will be arranged as not to be less than 120 training hours and will include theoretical, practical and arms training and renewal training will be arranged as not to be less than 60 training hours. For those who have graduated from such departments in the universities with security departments (faculty or vocational college) or which may open security departments (faculty or vocational college), no basic private security training will be sought other than arms training, for a period of five years.

Private security training may be provided for a charge both by Ministry of Internal Affairs and by private training organizations with the permission of the Ministry. For the founders and directors of the organizations that will provide private security training, the qualifications described in the third paragraph of the Article 5 will be sought.

The character, syllabus, the qualifications to be sought in the trainers and training centers and also the principles and the procedures regarding the determination of the competence that will result from the training will be regulated with the laws.

#### **Indemnity**

**ARTICLE 15.** – To those private security guards who have been injured, have become physically disabled or to the legitimate heirs of the private security guards who



have died during the performance of the duties set out in the present Law, indemnity will be paid within the amount limits and principles determined in the contract of employment or in the collective bargaining agreement. However, where court rules for payment of a higher amount of indemnity than that is set forth in the general provisions, the amount paid in accordance with the contract of employment or in the collective work agreement will be set off.

The indemnity to be paid in accordance with the provisions of the first paragraph cannot be connected with the other indemnities to be paid within the scope of The Labour Law no 4857.

The higher of the amount of indemnity written in the contract of employment or in the Collective Bargaining agreement or the Law on Cash Indemnities and Allowances no 2330 will be paid to those private security guards who are injured or have become physically disabled or to the legitimate heirs of the private security guards who have died during the performance of the duties written in the Present Law..

### **PART III**

#### **Prohibitions and Penalties**

##### **The ban on employing Individuals in non duty situations**

**ARTICLE 16.** – The private security staff cannot be employed in services other than those protection and security services described in the Law.

##### **Strike Ban**

**ARTICLE 17.** – The private security staff cannot participate in strikes.

##### **Ban on Removal from Duty**

**ARTICLE 18.** – The private security guards cannot be removed from office due to lockouts.

##### **The judicial crimes and penalties**

**ARTICLE 19.** – The judicial crimes and penalties that are prescribed in the present Law are as follows:

a) Those persons or the directors of the organizations that employ private security guards without getting private security permission written in the Article 3 of the present Law will be sentenced to imprisonment for no more than a period of six months and a heavy fine of TL six billion.

b) Those persons or the directors of the organizations that perform private security services without getting operating permission written in the Article 5 of the present Law, those persons or the directors of the organizations that employ private security guards without getting private security permission written in the Article 3 of the present Law, those directors of the organizations and institutions that provide private security training without getting private security permission written in the Article 14 of the present Law will be sentenced to imprisonment for no more than a period of one year and a heavy fine of TL twenty billion. Those persons who have been so sentenced may not be founders or directors in the private security companies or in the private security training centers.

c) Those persons, organizations and institutions that employ the persons to whom no working license is given in accordance with Article 11 of the present Law as private security guards will be sentenced to heavy fines of TL three billion for each person employed. In the case that these persons are employed carrying arms, they will be sentenced to imprisonment for no more than a period of six months and a heavy fine of TL three billion for each person employed.

d) Those persons, organizations and institutions that employ private security guards without providing insurance of liability described in the Article 21 of the present Law will be sentenced with a heavy fine of TL three billion for each person employed.

e) Those persons and directors of the organizations and institutions that make announcements or advertisements regarding the private security services or private security training without getting the operating permission written in the present Law are sentenced to imprisonment for no more than a period of six months and with a heavy fine of TL ten billion.

#### **Administrative crimes and penalties**

**ARTICLE 20.** – The Administrative crimes and penalties that are prescribed in the present Law are as follows:

a) Those private security companies that have not notified to the related Governor's Office the private security services to be provided to the other persons, organizations and institutions within the time period mentioned in the Article 5 will be sentenced with a heavy fine of TL one billion for each notification.

b) Those persons and the directors of the organizations and institutions that do not take extra measures demanded by the civilian administration authorities in accordance with Article 6 will be sentenced with an administrative fine of two billion TL.

c) Those private security guards who do not obey the strike ban written in Article 17, who use their firearms in violation of the present Law or outside the mission field or who let their private security identity cards to be used by somebody else will be sentenced with an administrative fine of TL one billion, and the working licenses of such persons will be abolished. Such persons can no more serve as private security guards.

d) Those persons and the directors of the organizations, institutions and companies who do not remedy the deficiencies determined and asked to be remedied in accordance with Article 22 are sentenced to an administrative fine of two billion TL.

e) Those persons and the organizations and institutions that employ the private security guards in the services any other than protection and security services will be sentenced to an administrative fine of TL one billion. for each act.

f) Those who have not fulfilled in time the notifications described in the paragraph 2 of Article 11 and in paragraph 3 of the Article 12 will be sentenced with an administrative fine of TL one billion.

The administrative fines prescribed in the present Article will be imposed by the highest civilian authority of the district in question. The decisions regarding the fines will be announced to the relevant parties in accordance with the provisions of Act Relating the Official Communications number 7201. Objections against such fines can be filed with the competent administrative court no later than seven days from the date of the

announcement. Objections will not prevent the imposition of the fine given. Objection will be brought to a conclusion within the least possible time period through investigation of the document. Decisions given regarding the objection, can be appealed before the provincial administrative court. The decisions made by provincial administrative courts are final. The administrative fines given in accordance with the present Law will be collected by Ministry of Finance upon the notification of the relevant Governor's Office or District Governor's Office in accordance with the The Law on Collection of State Receivables number 6183.

## **PART IV**

### **Miscellaneous Provisions**

#### **Private security liability insurance**

**ARTICLE 21.** – Corporate bodies and private security companies, with the aim of indemnification of the damages that the private security guards they employ may inflict upon third parties have to provide private security liability insurance. The principles and procedures related to the private security liability insurance are determined by Turkish treasury.

The private security liability insurance prescribed in the present Article are provided by the insurance companies that are authorized to operate in the related branch in Turkey. Such insurance companies are entitled to provide the private security liability insurance. The insurance companies that do not obey this obligation will be subject to an administrative fine of TL eight billion by the Turkish treasury. Provisions of the paragraph two of Article 20 applies to the collection of this fine and the procedures for the objections to the fine,

#### **Supervision**

**ARTICLE 22.** – The Ministry of Internal Affairs and Governors' Offices are authorized supervise the private security units, private security companies and private security training centers. The nature, scope, procedure and principles of the supervision will be determined with the laws.

It is compulsory for the relevant persons, organizations, institutions and companies to remedy the deficiencies identified as a consequence of supervision within the given time period.

The operating permission of those companies or private training organizations which operate outside their goals or which are identified to have been a source of crime will be abolished. The founders and directors of the companies and organizations whose operating permission are abolished in this regard cannot be founders or directors in the private security companies or in private security training organizations.



#### **Enforcement of fines**

**ARTICLE 23.** – The private security guards will be deemed to be civil servants in the enforcement of Turkish criminal code.

Those who commit crimes against the private security guards while on duty will be sentenced in the same way as if they have committed a crime against civil servants.

#### **License fee**

**ARTICLE 24.** – TL Ten billion for the operating permission to be given to the private security companies and the private security training organizations and TL two hundred million for the working license to be given to the private security guards will be collected and these fees will be deposited in the revenue authorities.

#### **The application of Revaluation rate**

**ARTICLE 25.** – The heavy fines described in the Article 19, the administrative fines described in the Article 20, the administrative fine described in the Article 21, the amounts regarding the license fees described in the Article 24 of the present Law will be increased each year in accordance with the revaluation rates determined in accordance with the Tax Procedure Law number 213.

#### **Regulations**

**ARTICLE 26.** – The Regulations regarding the implementation of the present Law will be published by the Ministry of Internal Affairs within three months following the publication of the present Law.

#### **Abolished Law**

**ARTICLE 27.** – The Law on Protecting Certain Organizations and Institutions and Provision of their Security dated 22.7.1981 number 2495 is abolished.

**TEMPORARY ARTICLE 1.** – On the date that the present Law enters into force, it will be assumed that the private security permission is given to the private security organizations founded in accordance with the Law number 2495 and work permits will be deemed issued to security guards for a period of five years.

#### **Effectiveness**

**ARTICLE 28.** – The Articles 19 and 20 of the present Law will go into effect nine months after the publication of the Law and other articles will become effective on the date of publication of the Law.

#### **Enforcement**

**ARTICLE 29.** – The Council of Ministers will enforce the provisions of the present Law.